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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,522	03/01/2004	Seth M. Demsey	MS306914.01 / MSFTP571US	9910

27195　　　　7590　　　　10/30/2008	EXAMINER	
AMIN, TUROCY & CALVIN, LLP	NGUYEN, VAN H	
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57th Floor, Key Tower	ART UNIT	PAPER NUMBER
CLEVELAND, OH 44114	2194	

NOTIFICATION DATE	DELIVERY MODE
10/30/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 July 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-39* is/are pending in the application.

    4a) Of the above claim(s) *34-37* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-33,38 and 39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Applicant's election of group I (claims 1, 2, 4-33, 38, and 39) in the reply filed on

07/01/2008 is acknowledged. Because applicant did not distinctly and

specifically point out the supposed errors in the restriction requirement, the

election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1, 2, and 4-39 are pending in this application. Claims 1, 2, 4-33, 38, and

39 are elected for examination.

Applicant is required to cancel non-elected claims 34-37 in the next response to

this office action.

Applicant is reminded that upon the cancellation of claims to a non-elected

invention, the inventorship must be amended in compliance with 37 CFR 1.48(b)

if one or more of the currently named inventors is no longer an inventor of at least

one claim remaining in the application. Any amendment of inventorship must be

accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37

CFR 1.17(i).

Claim Objections

2.   Claim 32 is objected to because of the following minor informalities:

"returning a one or more responses" should read *"returning one or more*

responses".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
conditions and requirements of this title.

Claims 1, 2, 4-33, 38, and 39 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter.

Regarding independent claim 1, the claim recites a "**system**" comprising *"a*

performance-based interface" and *"a filter component"*. As currently recited the

"system" comprises only computer software element(s). Thus, the claim is a

program per se and does not fall within any of the four enumerated categories of

patentable subject matter in section 101.

For the same reasons discussed supra with respect to independent claim 1,

dependent claims 2 and 4-18 fall outside the scope of § 101.

Regarding dependent claim 9, the Examiner notes that a computer-readable

medium having stored thereon computer-executable instructions is directed to

statutory subject matter so long as the language of the claim is not supported in

the Specification with non-statutory embodiments (i.e., signals, transmission

mediums and the like). See In re Nuijten, 500 F.3d 1346, 1357 (Fed. Cir. 2007)

(A claim directed to computer instructions embodied in a signal is not statutory

under 35 U.S.C. § 101).

In the present case, Applicant's Specification discloses that the computer readable

medium (that includes signal bearing media) is intended to broadly encompass "a

modulated data signal such as a carrier wave." (Spec. page, 15). Because

Applicant's claims broadly read on signals and other non tangible transmission

mediums, the Examiner concludes that claim 9 is directed to non-statutory subject

matter.

Regarding independent claim 19, the claim recites a "**system**" comprising *"a*

managed code framework", *"a native code framework"*, *"a performance-based*

interface" and *"a filter component"*. As currently recited the "system" comprises

only computer software element(s). Thus, the claim is a program per se and does

not fall within any of the four enumerated categories of patentable subject matter

in section 101.

For the same reasons discussed supra with respect to independent claim 19,

dependent claims 20-28 fall outside the scope of § 101.

Regarding independent claim 29, the Examiner notes that a computer-readable

medium having computer-executable instructions is directed to statutory subject

matter so long as the language of the claim is not supported in the Specification

with non-statutory embodiments (i.e., signals, transmission mediums and the

like). See In re Nuijten, 500 F.3d 1346, 1357 (Fed. Cir. 2007) (A claim directed to

computer instructions embodied in a signal is not statutory under 35 U.S.C. §

101).

In the present case, Applicant's Specification discloses that the computer readable

medium (that includes signal bearing media) is intended to broadly encompass "a

modulated data signal such as a carrier wave." (Spec. page, 15). Because

Applicant's claims broadly read on signals and other non tangible transmission

mediums, the Examiner concludes that independent claim 29 and claims 30-31

that depend therefrom are directed to non-statutory subject matter.

Regarding independent claim 32, the language of independent claim 32 raises a

question as to whether the claim is directed merely to an abstract idea that is not

tied to a technological art, environment or <u>machine</u> which would result in a

practical application producing a concrete, useful, and tangible result to form the

basis of statutory subject matter under 35 U.S.C. 101.

Independent claim 32 does not appear to require any computer hardware to

implement the claimed invention. These claims appear to define the metes and

bounds of an invention comprised solely of software.

If the "acts" of a claimed process manipulate only numbers, abstract concepts or

ideas, or signals representing any of the foregoing, the acts are not being applied

to appropriate subject matter. <u>In re Schrader</u>, 22 F.3d 290 at 294-95, 30 USPQ2d

1455 at 1458-59 (Fed. Cir. 1994).

The claimed invention as a whole must accomplish a practical application. That

is, it must produce a "useful, concrete and tangible result." <u>State Street</u>, 149 F.3d

1368, 1373, 47 USPQ2d 1596 at 1601-02 (Fed. Cir. 1998). MPEP 2106.

However, <u>State Street</u> does not hold that a "useful, concrete and tangible result"

alone, without a machine, is sufficient for statutory subject matter.

Dependent claim 33 is rejected for fully incorporating the deficiencies of their

base claim.

Regarding independent claim 38, the claim recites a "**system**" comprising

"means for receiving", *"means for notifying"*, *"means for returning"*, *"means*

for filtering", and *"means for transmtting"*. As currently recited the "system"

comprises only computer software element(s). Thus, the claim is a program per

se and does not fall within any of the four enumerated categories of patentable

subject matter in section 101.

For the same reasons discussed supra with respect to independent claim 38,

dependent claim 39 falls outside the scope of § 101.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-33, 38, and 39 are rejected under 35 U.S.C. 102(e) as being

anticipated by **Demsey et al.** (US 20040098731 A1).

The applied reference has a common assignee with the instant application. Based

upon the earlier effective U.S. filing date of the reference, it constitutes prior art

under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be

overcome either by a showing under 37 CFR 1.132 that any invention disclosed

but not claimed in the reference was derived from the inventor of this application

and is thus not the invention "by another," or by an appropriate showing under 37

CFR 1.131.

As to claim 1:

Demsey teaches a system that facilitates a performance enhancement in message-

based computing, comprising:

- a performance-based interface across which a request from a source is

    transmitted to a destination ([0016]-[0019] and [0034]-[0036]); and

- a filter component in communication with the destination that dynamically

    allows only one or more relevant responses from the destination to

    transition the interface to the source, the filter component is part of at least

    one of native code and managed code ([0018], [0047]-[0048], and [0061]-

    [0072]).

As to claim 2:

Demsey teaches the source comprises at least one of native code and managed

code, and the destination comprises at least one of native code and managed code

([0016] and [0047]-[0048]).

As to claim 4:

Demsey teaches the destination issues a callback to the source, in response the

filter component permits only a relevant response to the callback to be transmitted

to the destination [0047]-[0048], and [0061]-[0072]).

As to claim 5:

Demsey teaches the filter component is integrated into an operating system

([0032]-[0038]).

As to claim 6:

Demsey teaches in a small footprint execution environment that has reduced

resources ([0015]-[0016]).

As to claim 7:

Demsey teaches the source is part of a managed code framework that includes a

graphical user interface application that transmits an event for processing by the

destination, which destination is part of native code ([0041]-[0048]).

As to claim 8:

Demsey teaches a classifier that makes an inference about processes that can be

automatically performed ([0041]-[0048]).

As to claim 9:

Demsey teaches computer readable medium having stored thereon computer executable instructions ([0022] and [0118]).

As to claim 10:

Demsey teaches a computer ([0022]).

As to claim 11:

Demsey teaches server ([0022]).

As to claim 12:

Demsey teaches the source is associated with a GUI such that the request receives only the one or more responses from a graphics/windowing/events system that are relevant to the request ([0041]-[0048]).

As to claim 13:

Demsey teaches the source notifies a native layer that an event handler has attached or detached ([0018], [0047]-[0048], and [0061]-[0072]).

As to claim 14:

Demsey teaches the filter component is notified by the source when an event handler has attached to or detached from a source object, and forwards the one or more responses only when the associated event handlers are attached ([0018], [0047]-[0048], and [0061]-[0072]).

As to claim 15:

Demsey teaches the source can dynamically inspect at least one of properties,

methods, and events implemented on a source object ([0041]-[0048]).

As to claim 16:

Demsey teaches the source utilizes reflection during initialization of an object to

determine the presence of a custom object ([0041]-[0048]).

As to claim 17:

Demsey teaches the source utilizes reflection during initialization of an object to

determine if message handling has been modified in a custom object ([0041]-

[0048]).

As to claim 18:

Demsey teaches the source utilizes type introspection to determine the presence of

a custom object, in response to which the destination is notified that a message

associated with the custom object is of interest and will be forwarded from the

destination for a lifetime of the custom object ([0041]-[0048]).

As to claim 19:

Demsey teaches a system that facilitates a performance enhancement in message-

based computing, comprising:

- a managed code framework that generates a request ([0015]-[0016] and [0029]-[0034]);

- a native code framework that receives the request and issues one or more responses thereto ([0015]-[0016] and [0029]-[0034]);

- a performance-based interface between the managed code framework and the native code framework across which the request is passed and the one or more responses are transmitted ([0016]-[0019] and [0034]-[0036]); and

- a filter component in communication with the native code framework that dynamically allows only one or more relevant responses of the native code framework to transition the interface to the managed code framework ([0018], [0047]-[0048], and [0061]-[0072]).

As to claim 20:

Demsey teaches the filter component is part of the native code framework ([0018], [0047]-[0048], and [0061]-[0072]).

As to claim 21:

Demsey teaches the filter component only allows the one or more responses across the interface that are relevant to the request ([0018], [0047]-[0048], and [0061]-[0072]).

As to claim 22:

Demsey teaches a managed code filter component that is part of the managed

code framework ([0018], [0047]-[0048], and [0061]-[0072]).

As to claim 23:

Demsey teaches comprising a managed code filter component that is part of the

managed code framework, which managed code filter processes a callback from

the native code framework and only forwards responses from the managed code

to the native code that are relevant to the callback [0047]-[0048], and [0061]-

[0072]).

As to claim 24:

Demsey teaches the filter component only processes events that are registered

([0018]-[0021], [0047]-[0048], and [0061]-[0072]).

As to claim 25:

Demsey teaches the filter component is notified by the managed code framework

when an event handler has at least one of registered and unregistered from a

managed object, and forwards the one or more responses only when the

associated event handlers are registered ([0018], [0047]-[0048], and [0061]-

[0072]).

As to claim 26:

Demsey teaches the managed code framework source utilizes type introspection during initialization of an object to determine the presence of a custom object ([0041]-[0048]).

As to claim 27:

Demsey teaches the managed code framework utilizes type introspection during initialization of an object to determine if message handling has been modified in a custom object ([0041]-[0048]).

As to claim 28:

Demsey teaches the managed code framework utilizes type introspection to determine the presence of a custom object, in response to which the native code framework is notified that a message associated with the custom object is of interest and will be forwarded from the native code framework for a lifetime of the custom object ([0041]-[0048]).

As to claim 29:

Demsey teaches a computer-readable medium having computer-executable instructions for performing a method of managing messages across a performance-based interface, the method comprising:

- receiving the performance-based interface across which a request from a source is transmitted to a destination ([0016]-[0019] and [0034]-[0036]);

- returning one or more responses to the request from the destination ([0018]-[0021], [0047]-[0048], and [0061]-[0072]);

- filtering the one or more responses to allow only responses that are relevant to the request; and transmitting the relevant responses across the interface to the source ([0018]-[0021], [0047]-[0048], and [0061]-[0072]).

As to claim 30:

Demsey teaches the act of filtering occurs on the destination side of the interface [0047]-[0048]).

As to claim 31:

Demsey teaches *at least one of the acts of*: transmitting the relevant responses according to priority criteria; transmitting a request from the destination to the source; filtering the one or more responses to allow only responses from the source that are relevant to the request; and transmitting the relevant responses across the interface to the destination ([0018]-[0021], [0047]-[0048], and [0061]-[0072]).

As to claim 32:

Demsey teaches method of managing messages across a performance-based interface, comprising:

- receiving the performance-based interface between a managed code and a native code ([0016]-[0019] and [0034]-[0036]);

- registering an event handler for an event of a managed object ([0016]-[0019] and [0034]-[0036]);

- notifying the native code that the event handler is registered ([0018]-[0021], [0047]-[0048], and [0061]-[0072]);

- returning one or more responses of the native code associated with the event ([0018]-[0021], [0047]-[0048], and [0061]-[0072]);

- filtering the one or more responses of the native code to determine the relevant responses associated with event ([0018]-[0021], [0047]-[0048], and [0061]-[0072]); and

- transmitting the relevant responses across the interface to the managed code only when the associated event handler is registered ([0018]-[0021], [0047]-[0048], and [0061]-[0072]).

As to claim 33:

Demsey teaches tracking the attached event with the native code ([0061]-[0072]).

As to claim 38:

Note the rejection of claim 32 above. Claim 38 is the same as claim 32, except claim 38 is a system claim and claim 32 is a method claim.

As to claim 39:

Demsey teaches means for unregistering the one or more event handlers when the

associated events have expired ([0061]-[0072]).

Response to Arguments

5.   Applicant's arguments with respect to claims 1, 2, 4-33, 38, and 39 have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

6.   The prior art made of record, see PTO 892, and not relied upon is considered

pertinent to applicant's disclosure. Applicant should review these references

carefully before responding to this office action.

Contact Information

7.   Any inquiry or a general nature or relating to the status of this application should
        be directed to the TC 2100 Group receptionist: (571) 272-2100.

        Any inquiry concerning this communication or earlier communications from the
        examiner should be directed to VAN H. NGUYEN whose telephone number is
        (571) 272-3765. The examiner can normally be reached on Monday-Thursday
        from 8:30AM-6:00PM. If attempts to reach the examiner by telephone are
        unsuccessful, the examiner's supervisor, MENG-AI AN can be reached at (571)
        272-3756.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/
Primary Examiner, Art Unit 2194